

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

ARTHUR BLANTON BALL

PLAINTIFF

v.

CIVIL ACTION NO. 2:20-cv-1-TBM-MTP

**MARION COUNTY *and*
CORRECTIONAL OFFICER
BRIAN ADIARE**

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on submission of the Report and Recommendation [32] entered by United States Magistrate Judge Michael T. Parker on November 18, 2020. After considering the record, relevant legal authority, and having conducted a *Spears* hearing,¹ Judge Parker recommends that this case be dismissed for failure to state a claim and that the dismissal count as a strike pursuant to 20 U.S.C. § 1915(g). The Plaintiff has not filed an objection to the Report and Recommendation, and the time for filing an objection has expired.

“When a party fails timely to file written objections to the magistrate judge’s proposed findings, conclusions, and recommendation, that party is barred from attacking on appeal the unobjected-to proposed findings and conclusions which the district court accepted, except for plain error.” *Casas v. Aduddell*, 404 F. App’x 879, 881 (5th Cir. 2010); *Thomas v. Arn*, 474 U.S. 140, 152, 106 S. Ct. 466, 88 L. Ed. 2d 435 (1985) (“There is no indication that Congress, in enacting § 636(b)(1)(C), intended to require a district judge to review a magistrate’s report to which no objections are filed.”). Having considered Judge Parker’s Report and Recommendation, the Court finds that it is neither clearly erroneous nor contrary to law.

¹ *Spears v. McCotter*, 766 F.2d 179 (5th Cir. 1985).

IT IS THEREFORE ORDERED AND ADJUDGED that the Report and Recommendation [32] entered by United States Magistrate Judge Michael T. Parker on November 18, 2020 is ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED AND ADJUDGED that this action is DISMISSED WITH PREJUDICE and the dismissal shall count as a strike pursuant to 28 U.S.C. § 1915(g).

IT IS FURTHER ORDERED AND ADJUDGED that the Defendants' Motion for Summary Judgment [29] is DENIED as MOOT.

THIS, the 7th day of April, 2021.



TAYLOR B. McNEEL
UNITED STATES DISTRICT JUDGE